

UNITED STATES OF AMERICA
DEPARTMENT OF THE TREASURY
Date 4/26/94
Signature [redacted]
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MAR 15 1994

Dear Applicant:

We have considered your application for recognition of exemption under section 501(c)(3) of the Internal Revenue Code.

The information submitted indicates that you were incorporated in the State of [redacted] on [redacted]. Your articles of incorporation contain a section 501(c)(3) purpose limitation and also a section 501(c)(3) dissolution provision.

Your purpose is to assist in the preservation and display of a collection of 20th Century American art assembled over the last [redacted] years by [redacted]. You will perform related research and educational activities in connection with the works of art in the collection. You have a curator who assists in these matters on a volunteer basis. The collection is presently located in the residence of [redacted] in [redacted]. You do not maintain regular hours when the collection could be viewed by the public. The collection may be viewed by groups who must arrange in advance to see the art works.

[redacted] is the sole director and officer of your corporation. You indicate that the art works are all presently owned by him, but that upon receiving exempt status he will begin the transfer of art works to the organization. You have not yet decided whether you will continue to house the collection in his home, or whether you will seek another location for storing and displaying the collection. You have indicated no plans to make the collection available to the general public on a regular basis. You indicate that you have given considerable thought to expanding your board, but that no action will be taken until the role of the board is further defined, and until exemption is obtained.

Section 501(c)(3) of the Internal Revenue Code provides in part for the exemption from Federal income tax for organizations organized and operated exclusively for charitable or educational purposes.

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section.

Section 1.501(c)(3)-1(c)(1) of the regulations provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(d)(1)(ii) of the regulations provides that an organization is not organized or operated exclusively for one or more of the purposes specified unless it serves a public rather than a private interest. Thus it is necessary for such organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such interests.

The fact that [REDACTED] continues to retain ownership of the collection causes your efforts to preserve, display and publicize the collection to result in private benefit to him, as he is the beneficiary of any rise in the value of the collection resulting from your efforts. Also, substantial private benefit to [REDACTED] results from the location of the entire collection in his home, with only limited access to the public being offered. The likelihood of continuing substantial private benefit to [REDACTED] is increased by his complete control of your organization.

As your operations result in substantial private benefit to your founder, you do not meet the requirements of section 1.501(c)(3)-1(c)(1) of the regulations, as more than an insubstantial part of your activities is not in furtherance of an exempt purpose. Also, as you have not established that you are not organized or operated for the benefit of private interests as is required by section 1.501(c)(3)-1(d)(ii) of the regulations, you do not meet the requirements of that provision. Accordingly, you do not qualify for recognition of exemption under section 501(c)(3) of the Code.

Contributions to you are not deductible under section 170 of the Code.

[REDACTED]

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement, signed by one of your principal officers, must be submitted within 30 days from the date of this letter. You also have a right to a conference in this office after your statement is submitted. You must request the conference, if you want one, when you file your protest statement. If you are to be represented by someone who is not one of your principal officers, that person will need to file a proper power of attorney and otherwise qualify under our Conference and Practices Procedures.

If you do not protest this proposed ruling in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies. Section 7428(b)(2) of the Internal Revenue Code, provides, in part, that, "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the Tax Court, the United States Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director in Atlanta, Georgia. Thereafter, any questions about your federal income tax status should be addressed to that office. The appropriate State officials will be notified of this action in accordance with Code section 6104(c).

Sincerely yours,

signed [REDACTED]

[REDACTED]
Chief, Exempt Organizations
Rulings Branch 2

cc: [REDACTED]

cc: [REDACTED]

cc: [REDACTED]

CP: [REDACTED] R:2
D: [REDACTED]
3/14/74